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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 18-23538 (RDD)

(Jointly Administered)

**WHITEBOX MULTI-STRATEGY PARTNERS, LP'S
RESPONSE AND RESERVATION OF RIGHTS WITH RESPECT
TO THE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY
CODE SECTIONS 105, 362, 364 AND 1142 AND BANKRUPTCY RULES 3020(D),
4001 AND 9014 AUTHORIZING ENTRY BY THE DEBTORS' ESTATES INTO
THE LITIGATION FUNDING ARRANGEMENT WITH BENCH WALK 21P, L.P.**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtors' federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC (5554); Sears STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816).

Whitebox Multi-Strategy Partners, LP (“Whitebox”), by and through its undersigned counsel, hereby submits this Limited Response and Reservation of Rights (“Response”) to the Motion of the Official Committee of Unsecured Creditors for Entry of an Order Pursuant to Bankruptcy Code Sections 105, 362, 364 and 1142 and Bankruptcy Rules 3020(D), 4001 and 9014 Authorizing Entry by the Debtors’ Estates Into the Litigation Funding Arrangement with Bench Walk 21p, L.P. (the “Motion”). In support of its Response, Whitebox respectfully states as follows:

1. Whitebox is the holder of an allowed administrative expense claim in the face amount of \$13,812,108.31² (the “Whitebox Claim”). The Whitebox Claim is the largest allowed administrative expense claim.

2. Throughout these bankruptcy proceedings, Whitebox has worked constructively with all parties in interest in an effort to achieve a positive outcome for the Debtors’ estates and creditors, including spearheading the development of the Administrative Expense Claims Consent Program,³ which facilitated the confirmation of the Plan⁴ in October 2019.

3. More than two and a half years have passed since Plan confirmation and, contrary to estimates provided at the time of confirmation, the Effective Date has not yet occurred.

4. Whitebox shares in the Debtors’ hope that litigation and the liquidation of other assets will result in proceeds sufficient to satisfy administrative, priority and secured claims and provide a return for general unsecured creditors. To that end, Whitebox engaged with Akin Gump

² Whitebox has received distributions on account of the Whitebox Claim and its recovery is capped at 75%, as discussed below.

³ Pursuant to the Administrative Expense Claims Consent Program, Whitebox’s total recovery was capped at 75% of its allowed administrative expense claim, which at that time, together with the allowed administrative expense claim of Whitebox Asymmetric Partners LP, exceeded \$22 million.

⁴ Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

Strauss Hauer & Feld LLP, primary litigation counsel for the Litigation Designees, regarding Whitebox potentially providing financing for the prosecution of the Jointly Asserted Causes of Action. Those discussions did not result in an agreement between Whitebox and the Litigation Designees.

5. As the largest allowed administrative creditor and a potential source of litigation financing, Whitebox has an interest in seeing these cases resolved in the most efficient and economical way to maximize recoveries for the stakeholders. Whitebox can envision circumstances where it may wish to inform the Court of the status of the attendant issues and propose a path forward. Accordingly, Whitebox reserves all rights with respect to the Motion, including the right to amend, supplement, or otherwise modify the Response and to introduce evidence at any hearing related to the Motion.

Dated: June 15, 2022
New York, New York

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